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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A(MD)NO.218 OF 2018

and

C.M.P(MD)No.1210 of 2018

- 1.The State of Tamil Nadu,
represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600 009.
- 2.The Director of School Education,
College Road,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Pudukkottai - 622 001.
- 4.The District Educational officer,
Pudukkottai - 622 001. :Appellants/Respondents 1 to 4

.vs.

- 1.C.Lalitha,
P.G.Assistant in Tamil,
TELC Higher Secondary School,
Pudukkottai - 622 001. :First Respondent/Writ Petitioner
- 2.The Chairman,
The Tamil Evangelical Lutheran Church,
Education Board,
P.B.No.86, Treanquebar House,
Tiruchirappalli - 620 001.
- 3.The Correspondent,
TELC Higher Secondary School,
Pudukkottai - 620 001. : Respondents 2 and 3/Respondents
5 and 6

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent
praying this Court to set aside the order passed by this Court in
W.P(MD)No.3982 of 2013, dated 14.02.2017.

Prayer in WP(MD). 3982/ 2013 :

<https://hcservices.ecourts.gov.in/hcservices/> Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Mandamus, directing the respondents 1 to 4 to approve forthwith the



appointment of the petitioner as PG Assistant in Tamil in the 6th respondent school w.e.f., 15.11.2004 with all attendant benefits including arrears of salary and continuity of service after getting proposal from the 6th respondent school.

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For Appellants

:Mr.C.M.Mari Chelliah Prabu
Addl.Govt.Pleader

For Respondent-1

:Mr.T.Cibi Chakraborty
M/s.Issac Chambers

JUDGEMENT

[Judgement of the Court was made by K.RAVICHANDRABAABU,J.]

The appellants are respondents 1 to 4 before the Writ Court. The first respondent herein is the Writ Petitioner and sought for issue a Writ of Mandamus directing the respondents 1 to 4 to approve her appointment as P.G.Assistant in Tamil in the sixth respondent/School from 15.11.2004 with all attendant benefits including arrears of salary and continuity of service, after getting proposal from the sixth respondent/School. The learned Single Judge allowed the Writ Petition by issuing certain directions. Challenging the said order, the present Writ Appeal is filed by the respondents 1 to 4 in the Writ Petition.

2.Heard the learned Additional Government Pleader appearing for the appellants and the learned counsel for the first respondent/Writ Petitioner and perused the materials placed before us.

3.The learned Additional Government Pleader appearing for the appellants contended that the Writ Petitioner was appointed in a post which was not sanctioned to the sixth respondent/School. Therefore, it is contended by the appellants that the Writ Court ought not to have allowed the Writ Petition and issued the directions. Though such contention was raised by the learned Additional Government Pleader, he is not in a position to answer a specific question posed by us, as to how the findings rendered by the learned Single Judge in Paragraph 7 of his order with regard to some dates and events, which has driven him to conclude that the Writ Petitioner would be entitled to get the approval from the concerned authorities, are factually wrong. The learned Single Judge specifically pointed out that the post in which the Petitioner was appointed was the post available with the sixth respondent/School without any break at least from 15.11.2004, the date on which the Writ Petitioner was appointed, till the date the said post was restored on 19.5.2010. Therefore, the learned Single Judge observed that the Petitioner, who had been working on the sanctioned post of P.G.Assistant(Tamil) in the sixth respondent/School continuously, would be entitled to get the approval from the concerned authorities. The reasonings given by the



learned Single Judge, with the dates and events to arrive at such conclusion, is stated at paragraph 7 of the order, which are extracted as under:

''7.It is not disputed that the Petitioner had been appointed by the sixth respondent as the same can be evidenced from the order of appointment, dated 15.11.2004, issued by the sixth respondent and the copy of the same has been annexed in the typed-set of documents filed by the Petitioner. The other factors regarding the declaration of excess staff made by the third respondent and subsequent objection by the sixth respondent school and subsequent order of the third respondent, dated 20.6.2008 and the order passed by this Court staying the operation of the order dated 30.06.2008 of the third respondent and further order during the pendency of the Writ Petition by the third respondent, are all matters of records. There are no controversy in this regard. Ultimately by order dated 19..5.2010, the one post of P.G. Assistant(Tamil) and the other posts which were taken away from the sixth respondent school, had been subsequently restored. Taking away of P.G.Assistant(Tamil) had been stayed by this Court by order dated 13.7.2006, and the said order of stay had been in operation till the Writ Petition was dismissed as withdrawn on 19.5.2011. Only during the pendency of the Writ Petition, by order dated 19.5.2010, the third respondent had restored the posts which were taken away from the sixth respondent school, including the post of P.G. Assistant(Tamil) had been available with the sixth respondent school without any break at least from 15.11.2004, the date on which the Petitioner had been appointed till the said post was restored on 19.5.2010. Therefore, if at all the Petitioner had been working on the said sanctioned post of P.G. Assistant(Tamil) at the sixth respondent/School and the Petitioner had been continuously working in the said post, certainly the Petitioner would be entitled to get approval from the concerned authorities. ''

4.When these factual findings rendered by the learned Single Judge remained to be same, as there is no contra materials placed before us by the appellants to take a different view, We find that the order of the learned Single Judge does not require any interference, more particularly, when the learned Single Judge has disposed of the Writ Petition only by issuing certain directions as stated at Paragraph 11 of his order.

5.When such being the order passed by the learned Single Judge and when the appellants are not in a position to place the contra materials before us to take a different view with regard to the status of the post in which the Petitioner was appointed and



seeking approval, We find no reason to interfere with the order of the learned Single Judge. Thus, we find no merit in the Writ Appeal and accordingly the same stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is dismissed.

Sd/

Assistant Registrar (CO)

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/True copy/

Sub Assistant Registrar

To

- 1.The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St.George,
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- 2.The Director of School Education,
College Road,
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- 4.The District Educational officer,
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+1cc to M/s.ISSAC CHAMBERS, Advocate, SR.No.63449

W.A (MD) NO.218 OF 2018
and
C.M.P (MD) No.1210 of 2018
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VSN

KK/JC/26.04.2018/SAR-3/4P-6C